



# **STATE MINING AND GEOLOGY BOARD**

## **EXECUTIVE OFFICER'S REPORT**

**For Meeting Date: December 9, 2010**

**Agenda Item No. 3: Approval of Adjusted Financial Assurance Cost Estimate for Western Aggregates, LLC (CA Mine ID #91-58-0001), Western Aggregates, LLC (Operator), Mr. Lloyd Burns (Agent), County of Yuba.**

**INTRODUCTION:** The State Mining and Geology Board (SMGB) serves as the lead agency for the County of Yuba pursuant to the Surface Mining and Reclamation Act of 1975 (SMARA, Public Resources Code (PRC) Section 2710, et seq.). SMARA requires that each surface mining operation maintain a financial assurance in an amount adequate to reclaim, in accordance with the requirements of an approved reclamation plan, the land disturbed by the mining operation at the conclusion of mining activities. SMARA lead agencies are required to annually review the financial assurance amounts for each surface mining operation, and adjust the amount, as necessary, to account for new land disturbed, inflation, or land reclaimed. In any event, the lead agency must ensure that the approved amount is adequate to reclaim the mine site according to the reclamation plan requirements (PRC Sections 2770 and 2773.1, and California Code of Regulations (CCR) Section 3804).

**STATUTORY AND REGULATORY AUTHORITY:** Financial assurance cost estimate adjustment requirements are discussed under SMARA, and within the SMGB's regulations and guidelines. Lead agencies are required to assure that financial assurances for reclamation are sufficient pursuant to Division 2, Chapter 9, Article 5 of PRC Section 2770(d) which states:

*"The lead agency's review of reclamation plans submitted pursuant to subdivision (b) or of financial assurances pursuant to subdivision (c) is limited to whether the plan or the financial assurances substantially meet the applicable requirements of Sections 2772, 2773, and 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, but, in any event, the lead agency shall require that financial assurances for reclamation be sufficient to perform reclamation of lands remaining disturbed. Reclamation plans or financial assurances determined to substantially meet these requirements shall be approved by the lead agency for purposes of this chapter. Reclamation plans or financial assurances determined not to substantially meet these requirements shall be returned to the operator within 60 days. Reclamation plans or financial assurances determined not to substantially meet these requirements shall be returned to the operator within 60 days. The*



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*operator has 60 days to revise the plan or financial assurances to address identified deficiencies, at which time the revised plan or financial assurances shall be returned to the lead agency for review and approval.”*

In addition, PRC Section 2773.1(a) states:

*“...Lead agencies shall require financial assurances of each surface mining operation to ensure reclamation is performed in accordance with the surface mining operation's approved reclamation plan, as follows:*

*(3) The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.”*

Furthermore, the SMGB's regulations pursuant to Article 11 of the CCR Section 3804, Calculation of Financial Assurance Amount, states:

*“(a) The Financial Assurance Amount shall be calculated as prescribed in Public Resources Code Section 2773.1 and based on:*

- (1) an analysis of the physical activities and materials necessary to implement the approved reclamation plan;*
- (2) the lead agency's unit costs, or costs for third party contracting, for each of these activities, if applicable;*
- (3) the number of units of each of these activities, if applicable;*
- (4) a contingency amount not to exceed 10% of the reclamation costs.*

*(b) The calculated amount should not include the cost of completing mining of the site.*

*(c) In order for the lead agency or the Department of Conservation to determine what annual adjustments, if any, are appropriate to the Financial Assurance Amount, the operator shall annually submit to the lead agency a revision of the written calculation required under Section 3804(a).”*

**BACKGROUND:** Western Aggregates operates an active aggregate surface mining operation situated in the historic Yuba Goldfields about twelve miles northeast of Marysville, California. Although they currently share the same reclamation plan as that of Cal Sierra Development, Inc. (Cal Sierra), Cal Sierra extracts material for gold and heavy minerals; whereas, Western Aggregates extracts aggregate.



The current surface mine site is irregular in shape, is referred to as the “Deep Reserve Area”, and encompasses approximately 1,200 acres. In March of 2010 the SMGB confirmed vested rights on approximately 3,900 acres of Yuba Goldfields land owned by Western Aggregates, LLC. The operator is currently in the process of preparing an amended reclamation plan to address the expanded mining area. The site includes a processing plant, crushers, screens and conveyors, maintenance structures, fuel storage area and equipment fueling island, product stockpiles, scale house, shop buildings, administrative offices, boneyard, equipment staging area, designated discharge area pond, and extraction ponds.

The perimeter of the active mining area site is characterized by old dredged tailings, and the site makes up a portion of the “Yuba Gold Fields”. The Yuba Goldfields are characterized as narrow ridges separated by intervening topographic lows. Historically, most of the area has been dredged at least twice, and in some parts of the property, three to four times. With each phase of dredging, material extraction was to a greater depth with more efficient recovery equipment. The gravel and cobble tailings support sparse vegetative cover, whereas the intervening lows support marsh and shallow pond conditions, and a mixture of grass, weeds, cottonwoods, oak, and other species.

In the vicinity of current dredging operations, the area is characterized by several previously utilized extraction ponds (Cal Sierra’s Pond Nos. 1 through 6,) and several new extraction pond areas. The primary equipment staging area and boneyard is situated in the southwestern portion of the processing plant area, although some scrap metal is occasionally found dispersed throughout the area. The former Designated Discharge Area (DDA), which served as the primary sediment settling pond, is situated in the central portion of the site north of the processing area. During 2008 the operator established a new DDA immediately northeast of the processing area. Product stockpiles are situated adjacent to the processing area.

An inspection of the Western Aggregates surfacing mining operation was performed on December 8, 2009. At such time about 336 acres were deemed disturbed. The existing financial assurance is in the amount of \$1,038,080. No violations or corrective measures were noted at time of inspection, and the temporary stockpile of processed material located partially outside of the reclamation plan boundary was noted to be completely removed. The financial assurance was adjusted to reflect current site conditions, and anticipated disturbance over the next calendar year. The current financial assurance is in the form of a Surety Bond for the amount of \$1,765,344.00, which was approved by the SMGB on February 5, 2009. Based on observations made during the 2009 mine inspection, the adjusted financial assurance cost estimate in the amount of \$1,250,126.00 is considered adequate. The subject revised financial assurance cost estimate is significantly reduced compared to the current amount of the approved financial assurance. This reduction is due primarily to a correction (reduction by half) of the time required for excavator use and water



truck use. In addition, a reduction is realized due to lower grass seed and plant mix costs compared with the previous (July 2008) estimate.

The adjusted financial assurance cost estimate is summarized as follows:

**FINANCIAL ASSURANCE COST ESTIMATE ADJUSTMENT SUMMARY:**

I.	Primary Reclamation Activities	\$ 430,249.00
II.	Revegetation	\$ 438,542.00
III.	Plant Structures and Equipment Removal	\$ 0.00
IV.	Miscellaneous Costs	\$ 0.00
V.	Monitoring	\$ 10,000.00
	<b>Total Direct Costs</b>	<b>\$ 878,791.00</b>
VI.	Supervision/Overhead/Contingencies	
a.	Supervision (4.5%)	\$ 39,546.00
b.	Profit/Overhead (9.2%)	\$ 80,849.00
c.	Contingencies (7%)	\$ 61,516.00
d.	Mobilization (3%)	\$ 26,364.00
	<b>Total Indirect Costs</b>	<b>\$ 208,275.00</b>
	Total Direct plus Indirect Costs	\$1,087,066.00
	Lead Agency administrative cost (15%)	\$ 163,060.00
	<b>Total Estimated Cost for Reclamation</b>	<b>\$1,250,126.00</b>

**CONSIDERATION BEFORE THE SMGB:** The SMGB may take the following actions:

1. Approve as adequate the adjusted financial assurance cost estimate, without additions;

[or]

2. Modify the adjusted financial assurance cost estimate, and then accept it as adequate;

[or]

3. Reject the adjusted financial assurance cost estimate as inadequate and order it to be redone.

**EXECUTIVE OFFICER'S RECOMMENDATION:** The adjusted financial assurance cost estimate for Western Aggregates, LLC has been reviewed for its consistency and completeness in meeting the minimum requirements of SMARA, and the SMGB's regulations and guidelines. SMGB staff has reviewed the adjusted financial assurance cost estimate, and considers it adequate to reclaim the site in accordance with the approved reclamation plan. The Executive Officer recommends that the SMGB approve the adjusted financial assurance cost estimate.

**SUGGESTED MOTION LANGUAGE:**

To approve the Adjusted Financial Assurance Cost Estimate:

*Mr. Chairman, in light of the information before the State Mining and Geology Board today, I move that the Board approve the adjusted financial assurance cost estimate of \$1,250,126.00 for the Western Aggregates, LLC surface mining operation, CA Mine ID #91-58-0001, located in the County of Yuba, as adequate to reclaim the site in accordance with the approved reclamation plan, and as adequate in meeting the minimum requirements of SMARA and the SMGB's regulations.*

Respectfully submitted:

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Stephen M. Testa  
Executive Officer

## **EXHIBITS**

**Exhibit A      Adjusted Financial Assurance Cost Estimate**

**Exhibit B      2009 SMARA Annual Inspection Report**

